

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: David L. Marvit et al.  
Serial No.: 10/807,572  
Filing Date: March 23, 2004  
Confirmation No. 3119  
Group Art Unit: 2629  
Examiner: Regina Liang  
Title: *Gesture Based User Interface Supporting Preexisting Symbols*

**Mail Stop Appeal Brief - Patents**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, Virginia 22313-1450

Dear Sir:

**REPLY BRIEF**

Appellants respectfully submit this Reply Brief under 37 C.F.R. § 41.41 in response to the Examiner's Answer transmitted April 15, 2008. Appellants filed an Appeal Brief explaining clearly and in detail why the final rejections of Claims 1-4, 7-11, and 13-21 are improper and should be reversed by the Board of Patent Appeals and Interferences. In the Examiner's Answer, the rejections are sustained.

**Argument**

Appellants respectfully submit this Reply Brief under 37 C.F.R. § 41.41 in response to the Examiner's Answer transmitted April 15, 2008. Appellants filed an Appeal Brief explaining clearly and in detail why the final rejections of Claims 1-4, 7-11, and 13-21 are improper and should be reversed by the Board of Patent Appeals and Interferences (the "Board"). In the Examiner's Answer, the rejections are sustained. The Examiner rejects Claims 1-4, 7-11, and 13-21 under 35 U.S.C. 102(b) as being anticipated by WO 2003/001340 to Mosttov ("*Mosttov*").

In the Examiner's Answer, the Examiner responds to some of the arguments made by Appellants in the Appeal Brief with respect to the rejections indicated above. *See* Examiner's Answer, pages 4-5. Appellants reply to the Examiner's responses below.

**Appellants' Reply to Examiner's Response Regarding the Failure of *Mosttov* to Disclose, Teach, or Suggest Each Claim Limitation**

In the Examiner's Answer, the Examiner addresses Appellants' argument that *Mosttov* does not disclose symbol gestures logically associated with names of application commands, as recited by Claim 1 and, in similar form, by Claims 9, 15, and 21. The Examiner quotes a portion of *Mosttov* and states that the portion discloses that "keystro[k]e 'x' is a command for entering 'x.'" Examiner's Answer, page 5. The Examiner suggests that "'the command or data' are left undefined and interpreted by the application themselves, therefore, the keystro[k]e 'x' is the name of a command for entering 'x.'" *Id.*

However, Appellants respectfully submit that *Mosttov* specifically distinguishes between mere keystrokes as data input and names of application commands. *Mosttov* states that "one application can assign a token for a shaking motion to a command to close the application, whereas another application can assign a token for a shaking motion to a data input, such as a letter or number." *Mosttov*, page 8, lines 9-11 (emphasis added). Thus, *Mosttov* specifically distinguishes between a "command" and "data input, such as a letter or number" (e.g., keystroke or letter "x"). It is clear that an application command is different from a keystroke which, as the Examiner concedes, must be interpreted into a command in order to command an application – the keystroke itself is not the name of an application

command.<sup>1</sup> Thus, *Mosttov* does not disclose a symbol gesture logically associated with a name of an application command.

Therefore, as indicated in the Appeal Brief, Appellants respectfully submit that Claims 1, 9, 15 and 21 are patentable over the cited art used in the rejections and request that the Board overturn the rejections of these claims and all claims depending therefrom.

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<sup>1</sup> As indicated in Appellants' Appeal Brief, Appellants' specification provides examples of names of application commands, such as a command for "copying" data corresponding to a C-gesture, a command for "opening" a file corresponding to an O gesture, and a command for "deleting" data corresponding to a D-gesture. See Specification, page 44, lines 17-26.

**Conclusion**

Appellants have demonstrated, through their Appeal Brief and this Reply Brief, that the present invention, as claimed, is clearly distinguishable over the prior art cited by the Examiner. Therefore, Appellants respectfully request the Board of Patent Appeals and Interferences to reverse the Examiner's final rejection of the pending claims and instruct the Examiner to issue a notice of allowance of all pending claims.

Appellants believe no fees are due in the filing of this Reply Brief. However, the Commissioner is hereby authorized to charge any fee and credit any overpayment to Deposit Account No. 02-0384 of Baker Botts L.L.P.

Respectfully submitted,  
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Date: June 11, 2008

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